

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Michael E. Alford,
Petitioner-Appellant,

v.

Pottawattamie County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-78-0058
Parcel No. 7542 30 251 007

On March 1, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Michael E. Alford was self-represented and requested his appeal proceed without a hearing. Assistant County Attorney Leanne Gifford represented the Board of Review. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Michael Alford is the owner of property located at 24522 Richfield Loop, Council Bluffs, Iowa. The real estate was classified residential on the January 1, 2012, assessment. It was valued at \$324,425, representing \$56,327 in land value and \$268,098 in improvement value. The January 1, 2012, assessment of the subject property did not change from the prior year's assessment.

Alford protested the assessment to the Pottawattamie County Board of Review on the grounds that (1) the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); (2) the property was assessed for more than authorized by

law under section 441.37(1)(a)(2); and (3) that there was a change in value since the last assessment under sections 441.37(1)(b) and 441.35(2). The Board of Review denied the protest.

Alford then appealed to this Board reasserting his claims. Alford's written appeal statement and evidence centers on his claim that the property inequitably assessed and over-assessed. However, because there was no change in value from the previous assessment, the only ground this Board can consider on appeal is whether there has been a change in value since the last reassessment. Iowa Code §§ 441.35(2), 441.37(1)(b); *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). This is the only ground available in an "interim year," like 2012, when the assessor has not changed the property's value from the previous year. *Id.*

According to the property record card, Alford's property is a one-story, frame home built in 1999. It has 1756 square feet of above grade living area; a full basement with 1606 square feet of finish; a 682 square-foot attached garage; and a 266-square-foot deck. The subject site is 1.71-acres.

Alford listed two properties on his petition for equity comparison. Because equity is not an available ground before this Board, we do not find this information relevant.

Alford also submitted a market value appraisal of his property. The appraisal was completed by Bobbette M. Behrens of Koestner, McGivern and Associates, Council Bluffs, Iowa with an effective date of August 19, 2011. The effective date is approximately four months before the 2012 assessment date, and therefore it is reasonable to assume Alford intended to use this evidence in support of his claim that the 2012 assessment was too high.

Behrens considered three sales and one listing in her sales comparison analysis. She did not develop the cost or income approach to value. Of the three sales Behrens used, one sold in September 2010 (24621 Richfield Loop); one sold in February 2011 (24480 Richfield Loop), and one sold in June 2011 (22054 Meadowview Drive). Both of the Richfield Loop sales are located in the immediate neighborhood of the subject property and on the same street. Both have similar overall site appeal,

style, age, size, and amenities. The Meadowview property is located over five miles from the subject property, but also offers similar site, age, size, and amenities. Behrens explains in her report, that both of the Richfield loop sales are inferior to the subject property because they lack construction upgrades like solid surface countertops and a circular staircase. She adjusts both upward \$13,000. She finds the Meadowview to be superior in quality of construction and reduces its sales price by \$16,000; however, she does not explain what makes it superior. After adjustments, these comparable properties have indicated values between \$288,300 and \$309,600. The listing adjusts to \$296,500, which is roughly the mid-point of this adjusted sales range; however, because Behrens relied on three sales for her opinion, we give limited consideration to the listing as sales are preferred. Her final opinion of value is \$300,000.

Alford did not submit any evidence of the January 1, 2011, market value.

The Board of Review submitted a position statement. It essentially explains that it does not believe Alford has adequately met his burden to show a change in value for the subject property. It further states, “simply providing a report which indicates the 2012 assessed value may be more than the August 19, 2011, market value does not show a downward change in value.”

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

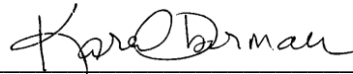
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc.*, 497 N.W.2d at 862. Iowa Code section 441.37(1)(b) and its reference to section 441.35(3) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Alford provided an appraisal that reasonably reflects a value for the subject property as of January 1, 2012. However, he did not provide evidence of the subject property's market value for January 1, 2011. In an interim year, both values are necessary to show that the property has suffered a change in value.

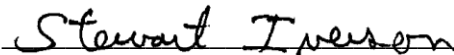
Even though Alford's claim must fail for the 2012 assessment year, we do believe the evidence raises sufficient questions regarding the subject property's market value for the Board of Review to request the assessor's office reevaluate Alford's property for the January 1, 2013, assessment.

THE APPEAL BOARD ORDERS the assessment of Michael Alford's property located at 24522 Richfield Loop, Council Bluffs, Iowa, of \$324,425 as of January 1, 2012, as set by the Pottawattamie County Board of Review is affirmed.

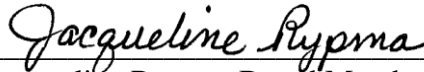
Dated this 15th day of March, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:
Michael Alford
24522 Richfield Loop
Council Bluffs, Iowa 51503
APPELLANT

Leanne Gifford
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ATTORNEY FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on March 15, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other



Signature _____